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***Court of Wards Act, 1977***  
***(Act No. LII of Svt. 1977)***

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# **THE COURT OF WARDS ACT, 1977 (1920 A. D.)**

(Act No. LII of Samvat 1977)

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**THE COURT OF WARDS ACT, 1977 ( 1920 A. D. ).**  
**(Act No. LII of Samvat 1977)**

[ Sanctioned by His Highness the Maharaja Sahib Bahadur ( per Chief Minister's letter No. 13017, dated 27th November, 1920 ) and published in Government Gazette dated 5th Magh, 1977.]

**An Act to make better provision for the Court of Wards in the Jammu and Kashmir State.**

Whereas it is expedient to make better provision for the Court of Wards in the Jammu and Kashmir State ; It is hereby enacted as follows :--

CHAPTER I  
PRELIMINARY

1. *Title and extent.*—(1) This Act may be called the Jammu and Kashmir Court of Wards Act, 1977.

(2) It extends to the whole of the Jammu and Kashmir State. It shall come into force on the 1st day of Baisakh, 1978.

2. *Existing rules etc., to be deemed under the Act.*—All rules and appointments made, notifications and orders issued, authorities and powers conferred, forms, and leases granted, rights acquired, liabilities incurred and other things done hereto fore in matter dealt with by this Act shall, so far as may be, be deemed to have been respectively made, issued, conferred, granted, acquired, incurred and done under this Act.

3. *Definitions.*— In this Act, unless there be something repugnant in the subject or context, the expression—

- (a) “immovable property” shall include land, benefits to arise out of land, and things attached to the earth or permanently fastened to anything which is attached to the earth, but shall not include growing crops or grass ;
- (b) “land - holder” shall mean a person who possesses any interest in land, whether as proprietor, assignee of the land revenue, lessee of waste lands or otherwise ;
- (c) “minor” shall mean a person who has not, within the meaning of the State Majority Act, attained his majority ; and
- (d) “ward” shall mean any person in respect of whose person or the whole or any part of whose property, or of whose person and property, the Court of Wards by this Act constituted, for the time being, has assumed superintendence, but shall not include a joint proprietor the superintendence of whose property has been assumed by the Court of Wards under section 8.

CHAPTER II  
THE COURT OF WARDS AND ITS JURISDICTION

4. *Constitution of the Court of wards and its jurisdiction.*—(1) The Revenue Minister shall be the Court of Wards for the Jammu and Kashmir State.

(2) The Court of Wards may exercise all or any of the powers conferred on it by this Act, either or through <sup>1</sup>[ the Dupty Commissioner ] of the district within the limits of which any ward may at any time reside or any part of the property of any ward may be situate, or through any other person whom it may, at any time, in respect of any ward, or the whole or any part of the property of any ward, appoint in that behalf.

(3) The Court of Wards may, with the sanction of <sup>2</sup>[ the Government] from time to time, by general or special order, or by rule made under this Act, delegate any of its powers to any <sup>1</sup>[Deputy Commissioner] or other person as aforesaid, and may, at any time, with the like sanction, revoke any such delegation.

(4) The powers and authority by this Act vested in the Court of Wards shall be exercised by it, subject to the control of <sup>2</sup>[the Government].

*5. Power of the Government to make order, in certain cases, directing the Court of Wards to assume superintendence of properties of land - holders.—*(1) Any land-holder may apply to <sup>2</sup>[ the Government] to make an order directing that his property be placed under the superintendence of the Court of Wards, and , upon receiving any such application, <sup>2</sup>[ the Government] may, if it considers it expedient in the public interest so to do, make an order accordingly.

(2) When it appears to <sup>2</sup>[ the Government] that any land-holder is—

- (a) by reason of being a female ; or
- (b) owing to any physical or mental defect or infirmity ; or
- (c) owing to his having been convicted of a non - bailable offence and to his vicious habits or bad character ; or
- (d) owing to his having entered upon a course of wasteful extravagance likely to dissipate his property ; incapable of managing or unfitted to manage his affairs, <sup>2</sup>[the Government ] may make an order directing that the property of such land - holder be placed under the superintendence of the Court of Wards :

Provided that such an order shall not be made on the ground stated in clause (c) or on the ground stated in clause (d) unless such land-holder belongs to a family of political or social importance and <sup>2</sup>[the Government] is satisfied that it is desirable, on ground of public policy or general interest, to make such order.

(3) Every order made by <sup>2</sup>[the Government] under sub - section (1) or sub- section (2), shall be final and shall not be called in question in any Court of law.

*6. Power of Court of Wards, of its own motion, to assume superintendence.—*When any land-holder is a minor or a person adjudged by a competent Court to be of

1. Substituted by Act No. III of Samvat 2008 for “the Governor of the Province or the Wazir-i-azarat”.

2. Substituted for “His Highness” by Act No. X of Samvat 1996.

unsound mind and incapable of managing his affairs, the Court of Wards may make an order assuming the superintendence of the property or the person and property of such land-holder.

**7. Court of Wards shall assume superintendence in cases in which an order is made under section 5 and may do so when Deputy Commissioner is appointed guardian under the State Court of Wards Act .--** (1) When, in respect of any land - holder, an order is made by \*[the Government] under sub - section (2) of section 5, the Court of Wards shall assume the superintendence of the property of such land - holder, and may on its discretion also assume the superintendence of his person. *\*[ Substituted for ‘ His Highness’ by Act X of 1996.]*

(2) When \*[Deputy Commissioner ] is appointed or declared to be guardian of the person or property, or both, of a minor, under the provisions of section 18 of the State Guardian and Wards Act, he shall intimate the fact to the Court of Wards, and the Court of Wards may thereupon, in its discretion, either assume, or refrain from assuming, the superintendence of the person or property, or both (as the case may be ), such minor, and the provisions of this Act shall, if such superintendence be so assumed, apply to the person or property, or both ( as the case may be ), of such minor. *\*[ Substituted by Act III of 2008 for “ Governor or Wazir - i - Wazarat” .]*

**8. Properties of which there are more proprietors than one .--** When there are two or more proprietors of any property and the shares of the several proprietors have not been separated off, and the Court of Wards, acting under section 6, or section 7, assumes the superintendence of the property of one or more, but not all, of such proprietors, the Court of Wards may issue the superintendence also of the shares of such joint proprietor or joint proprietors as is or are not disqualified, paying any such proprietor the surplus income accruing from his share of the property. The superintendence assumed under this section shall extend only to the management of the share of the joint proprietor in such joint property and shall not, as regards such share, include the power to sell or mortgage the same or any part thereof or to grant a lease thereof for a period exceeding 20 years or to create any change thereon or interest therein .

**9. Notification of assumption of superintendence .--** Whenever the Court of Wards assumes the superintendence of the person or property of any person under any of the provisions of this Act, the order of assumption shall be notified in the Government Gazette and \*\* [ shall specify the district, the Deputy Commissioner of which ] shall be put in charge on behalf of the Court of Wards. *\*\* [ Substituted *ibid* for certain words .]*

**10. Operation and finality of orders made under sections 6, 7 and 8 .--** Every order made by the Court of Wards assuming, under sections 6, 7 and 8 respectively, the superintendence of the person or property, or both, of any person shall take effect from the date fixed in this behalf in the notification published under section 9, and shall be final and shall not be called in question in any Court of law.

### CHAPTER III

#### INQUIRY AND ACTION PRECEDING ASSUMPTION OF SUPERINTENDENCE.

**11. Inquiry by Deputy Commissioner in order to satisfy himself as to whether action should be taken under the Act .--** (1) For the purpose of satisfying himself as to, whether, in respect of any land-holder ,—

- (a) \* [the Government ] should be moved to make an order under sub - section (2) of section 5, or \*[ *Substituted for “His Highness “ by Act X or 1996.*]
- (b) the Court of Wards should be moved to make an order under section 6, or

for the purpose of making any report which may be called for in connection with any application of a land - holder under sub - section (1) of section 5, the \*\* [ Deputy Commissioner ] may make such inquiry into the circumstances of such land - holder as he may deem necessary, and, pending the taking of any such action, may issue such orders for the temporary custody and protection of the person or property, or both, of such land - holder as he thinks fit.

*\*\*[ Substituted by Act III of 2008 for “Governor or with his permission the Wazir Wazarat”].*

\*\*\* [(1-a) When the \*\*\*\*[ Deputy Commissioner ] has reason to believe that the landlord whose estate is under inquiry is raising further loans, he may, to prevent the landlord from encumbering the estate further by incurring fresh liabilities during the pendency of the enquiry contemplated by this section, issue an injunction and notify it in the Government Gazette that no person shall advance fresh loans to the land - holder from the date of the publication of the notice till the question of assumption of charge by the Court of Wards has been decided. No Court of law shall grant a decree on a suit instituted against the land- holder or the Court of Wards on basis of money advanced to the land - holder during such prohibition.] \*\*\*\*[ *Sub - section (1-a) added by Revenue Department Notification No. R-21 published in Government Gazette dated 9th Maghar, 1990.*] . [*Substituted by Act III of 2008 for Governor.*]

(2) If the land - holder be a minor, the \*\*\*\*[Deputy Commissioner] may direct that person, if any, then having the custody of the minor, shall produce him, or cause him to be produced, at such place and time as the \*\*\*\*[ Deputy Commissioner] appoints and may make such order for the futher custody of the minor, pending the orders of the Court of Wards, as he thinks proper. \*\*\*\*[*Substituted by Act III of 2008 for Governor.*]

(3) If the minor is a female who ought not to be compelled to appear in public, the direction under sub- section (2) shall require her to be produced in accordance with the manners and customs of the country.

(4) If the land-holder is alleged to be or is of unsound mind, the \*[Deputy Commissioner] shall make application to a competent Court in view to an enquiry being made by such Court for the purpose of ascertaining wether such person is or is not of unsound mind and incapable of managing his affairs. \*[ *Substituted by Act III of 2008 for “ Governor or with his permission the Wazir Wazarat”.*]

**12. Procedure in inquiry .--** (1) For the purposes of every enquiry to be made, or

direction to be given in pursuance of any of the provisions of this Act, the *\*\**[Deputy Commissioner] may exercise all or any of the powers of a Civil Court under the State Code of Civil Procedure. *\*\**[ Substituted *ibid* for “Governor or the Wazir Wazarat”.]

(2) For the purpose of protecting the property, or any part thereof, of any landholder, pending an enquiry under sub-section (1) of section 11 *\*\**[Deputy Commissioner] may, subject to the direction and control of the Court of Wards, take possession thereof and appoint a manager and such care takers in respect thereto as he may deem fit. *\*\**[Substituted by Act III of 2008 for “Governor or with his permission the Wazir Wazarat”].]

#### **CHAPTER IV. WARDSHIP AND ITS CONSEQUENCES.**

**13. Vesting of property of ward in the Court of Wards.--** (1) Upon the publication of a notification under section 9, in respect of the property of any person, the whole of such property at the date of the notification, shall vest in the Court of Wards and shall remain so vested until the Court of Wards shall, by notification under section 50, divest itself of the superintendence of the whole or any part thereof, or is otherwise divested of such superintendence in due course of law.

(2) All rights accruing to and property inherited by or vesting in any ward after the publication of a notification under section 9, and while the property of such ward is under the superintendence of the Court of Wards, shall vest in the Court of Wards :

Provided that the Court of wards may, in its discretion , assume or refrain from assuming, the superintendence of any property which any ward may acquire, otherwise than by inheritance subsequent to the date of the notification published under section 9.

**14. Non- liability of land vested in the Court of Wards to sale for arrears of revenue .--** No land under the superintendence of the Court of Wards shall be sold for arrears of revenue accruing while such land is under such superintendence .

**15. Disability of wards.--** No ward shall be competent—

- (a) to transfer or create any charge on, or interest in the whole or any part of his property which is under the superintendence of the Court of Wards, or to enter into any contract which may involve him in pecuniary liability :

Provided that nothing in this clause shall be deemed to affect the capacity of a ward to enter into a contract of marriage ; but he shall not incur, in connection therewith, any pecuniary liability, except such as, having regard to the personal law to which he is subject, and to his rank and circumstances, the Court of Wards may, in writing, declare to be reasonable ;

- (b) without the previous sanction, in writing, of the Court of Wards, (1) to adopt, or (2) to give permission to adopt, or (3) to dispose of any property

by will.

**16. Continuing disabilities in certain cases .--** (1) When the property of any landholder, in respect of whom an order has been made under sub-section (1) or on the last ground stated in sub-section (2) of section 5, is released from the superintendence of the Court of Wards, such land-holder shall not be competent, without the previous sanction of \*[the Government ] to alienate the whole or any part of the immovable property which has been so released, in any way, or to create any charge upon any such property extending beyond his life time, and every transfer made or attempted to be made, or charge created or attempted to be created, in contravention of this provision, shall be void. *\*[ Substituted for "His Highness" by Act X of 1996.]*

(2) No suit shall be brought whereby to charge any person upon any promise made after he has ceased to be a ward to pay any debt contracted during the period when he was a ward, or upon any ratification made after he has ceased to be a ward of any promise or contract made during the above period, whether there shall or shall not be any new consideration for such promise of ratification.

**17. Power of the Court of Wards to act on behalf of wards and to deal with their properties .--** (1) Subject to the law for the time being in force with respect to transfer of property the Court of Wards may, at any time, mortgage or sell the whole or any part of the property of a ward and may grant leases or farms of the whole or any part of such property for such terms as it thinks fit, and may make such remission or rental or other arrears and may generally and from time to time pass all such orders and do all such acts, not inconsistent with the provisions of this Act or any other enactment for the time being in force, as it may deem to be for the advantage of the ward or the benefit of his property.

(2) The Court of Wards may, for the purpose of raising a loan for the benefit of a ward or his property, hypothecate, with the approval of \*[the Government] any **Jagir, Muafi**, pension or assignment of land revenue held by ward. *\*[Substituted for the words His Highness, the words the Government by Act X of 1996.]*

**18. Deeds and other instruments .--** (1) All deeds, contracts or other instruments executed by the Court of Wards in the exercise of its powers of superintendence under this Act shall be executed by the Court of Wards in its own name.

(2) Covenants entered into by the Court of Wards shall be binding on the Court of Wards only so long as the ward or the property affected by such covenant remains under its superintendence and only to the extent of such property ; and such covenants shall be binding on the ward or on the person entitled to such property after the ward or the property or both ( as the case may be ) shall have been released from superintendence.

(3) This section shall also apply to all deeds, contracts and other instruments executed before the commencement of this Act .

**19. Notice of suit .--** No suit relating to the person of any ward or to any property

under the superintendence of the Court of Wards shall be instituted in any civil or revenue Court until the expiration of two months after notice in writing has been delivered to, or left at, the office of the \*[Deputy Commissioner] of the district, specified in the order of assumption in the notification under section 9, stating the name and place of abode of the intending plaintiff, the cause of action and the relief which he claims ; and the plaint shall contain statement that such notice has been delivered or left :

*\*[ Substitutedby Act III of 2008 for “Governor of the Province or the Wazir Wazarat”.]*

Provided that notice under this section shall not be required in the case of any suit the period of limitation for which will expire within three months from the date of the notification under section 9.

**20. Suits to be in name of Court of Wards .--** (1) No suit (a) by or on behalf of a ward, or (b) affecting any property under the superintendence of the Court of Wards, shall be brought without the authority of the Court of Wards or of such officer as it may appoint in that behalf, and in every such suit brought in with such authority the Court of Wards shall be named as plaintiff.

(2) In every suit against a ward or affecting property under the superintendence of Court of Wards, the Court of Wards shall be named as the defendant.

(3) Suits brought by or against any Court of Wards may be instituted and conducted or defended on behalf of the Court of Wards by the \*[Deputy Commissioner] of the district, specified in the order of assumption in the notification under section 9, or by the manager or other person authorised, by general or special order or rule made under this Act in that behalf, by the Court of Wards. *\*[Substituted by Act III of 2008 for “Governor of the Province or the Wazir Wazarat”.]*

#### **CHAPTER V.**

#### **GENERAL PROVISIONS AS TO THE SUPERINTENDENCE OF THE PERSONS AND PROPERTIES OF WARDS.**

**21. Court of Wards assuming superintendence of the property to take possession thereof. Procedure as to property situate in other districts .--** As soon as conveniently may be, after the assumption by the Court of Wards, of the superintendence of the property of any person, the \*[Deputy Commissioner] of every district within which any part of such property may be situated or some person authorised, in writing, by him in this behalf, shall \*\*\*[XXX] take possession of all such property and all accounts and papers relating thereto and shall do all other acts and things which may be necessary to secure and protect the same and place it under proper custody and control.

*\*[Substituted by Act III of 2008 for “Governor of the Province or the Wazir Wazarat”.]. \*\*\*[Words “subject to the orders of the Governor” deleted ibid.]*

**22. Powers of Court of Wards as to superintendence and control . Audit of accounts and management of legal affairs of wards and properties .--** The Court of Wards

may, from time to time, direct such provision, as it may think fit, to be made in respect of the--

- (1) superintendence and supervision of the persons of the wards and properties under its superintendence ;
- (2) periodical or special audit, by an independent auditor of the accounts of the properties generally or of any particular property as it may think fit ;
- (3) management of the legal affairs of properties generally, or of any particular property, as it may think fit .

**23. Powers of Court of Wards to change expences against properties under its superintendence .--** The Court of Wards may, from time to time , regulate the expences to be incurred in the supervision, care and management of the wards and properties under its superintendence, and generally in carrying out all or any of the purposes of this Act, and may order that such expenses, or any of them , including all salaries, gratuities and leave allowances of establishment and all contingent and other expenses whatsoever which it shall consider requisite, be charged against such property gnerally, or against anyone or more properties comprised in such property for the purposes of which such establishments are, or have been, entertained or such expenses have been incurred.

**24. Residence and education of wards .--** (1) The Court of Wards may pass such orders as it thinks fit in respect of the residence of any ward whose person is for the time being under its superintendence and, when he is a male, minor in respect of his education.

(2) The Court of Wards may, from time to time, require any such male minor ward to attend to such tutor, class, school or college, for the purposes of education, as it thinks fit.

**25. Allowance for ward and his family .--** (1) The Court of Wards may, from time to time, determine what sums, shall be allowed in respect of the expenses of any ward and of his family and dependents.

(2) The Court of Wards may, from time to time, determine what sums may be spent on the education of any minor ward whose person is for the time being under its superintendence.

## **CHAPTER VI.**

### **ASCERTAINMENT AND LIQUIDATION OF LIABILITIES OF WARDS.**

**26. Notice to claimants.--** On the publication of a notification under section 9, the \*[the Deputy Commissioner] of the district, specified in the order of assumption or any other \*\*[Deputy Commissioner] whom the Court of Wards may appoint in that behalf, shall publish in the Gazette a notice, calling upon all persons having claims against the ward or against the property under the superintendence of the Court of Wards to notify the same in writing to such \*\*[Deputy Commissioner] within six months from the date of

publication of the notice. *\*[Substituted by Act III of 2008 for “Governor of the Province or the Wazir Wazarat.”].\*\*[Substituted ibid for “Governor or the Wazir Wazarat”].]*

(2) The notice may also be published at such places and in such other manner as the Court of Wards may, by general or special order, direct or by rule, made under this Act, prescribe.

(3) The *\*\*[Deputy Commissioner]* may, if he is satisfied that any claimant had reasonable excuse for not submitting his statement of claim within six months, receive his claim at any time after the expiry of the period aforesaid, but any claim so received shall, unless the *\*\*[Deputy Commissioner]* otherwise directs and notwithstanding any law, contract, decree or award to the contrary, cease to carry interest from the date of the expiry of the period aforesaid. *\*\*[Substituted ibid for “Governor or the Wazir Wazarat”].]*

**27. Presentation of claims.--** (1) Every claimant shall together with his statement of claim, present full particulars thereof.

(2) Every document (including entries in books of accounts on which the claimant founds his claims, or on which he relies in support thereof, shall be produced before the *\*\*\*[Deputy Commissioner]* issuing the notice mentioned in section 26 with the statement of claim. *\*\*\*[Substituted ibid for “Governor”].]*

(3) Every such document shall be accompanied by a true copy of the same. The *\*\*\*[Deputy Commissioner]* issuing the notice mentioned in section 26, or such officer as he may appoint in that behalf, shall mark the original document for the purpose of identification, and after examining and comparing the copy with it, shall retain the copy, and return the original to the claimant. *\*\*\*[Substituted ibid for “Governor”].]*

**28. Examination into admission and rejection of claim.--** (1) The *\*[Deputy Commissioner]* issuing the notice mentioned in section 26 shall, after such enquiry as he may consider necessary, decide, as to each claim made against any ward or property, in manner in section 26 and section 27 provided, whether such claim is, either in whole or in part, to be admitted or disallowed, and shall intimate, in writing, his decision in respect of each such claim to the claimant thereof. If such liabilities cannot be paid at once, the decision shall fix the interest (if any) to be paid thereon from the date of such decision to the date of the payment and discharge of such claim. *\*[Substituted by Act III of 2008 for “Governor”].]*

**29. Bar of claims not duly notified.--** Every debt or liability incurred other than debts due to, or liabilities incurred in favour of the State) to which any ward is subject, or with any property under the superintendence of the Court of Wards or any part thereof is charged, and which is not duly notified to said *\*\*[Deputy Commissioner]* issuing the notice mentioned in section 26 within the time and in the manner hereinbefore prescribed, shall subject to the provisions of section 7 and section 13 of the State Limitation Act, be deemed for all purposes and on all occasions, whether during the continuance of the superintendence of the Court of Wards or afterwards, to have been duly discharged :

Provided that the provisions of this section shall not be deemed to extinguish any such debt or liability in any case in which the Court of Wards, after assuming the superintendence of such property, release the same from such superintendence of without ascertaining and dealing with the liabilities thereof as in this chapter provided in that behalf, and that, in any such case, in computing the period on limitation applicable to any suit or application for the recovery of any such debt or the enforcement of any such liability, the time from the date of the notification of claim under section 26, to the date of the release of the property from the superintendence of the Court or Wards, shall be excluded.

**30. Exclusion of documents not produced .--** If any document in the possession or under the control of the claimant is not produced by him as required by section 27, such document shall not be admissible in evidence in any suit or proceeding thereafter brought against a ward or as affecting any property under the superintendence of the Court of Wards by the claimant or by any person claiming under him.

**31. Decrees against wards or their properties and their execution .--** (1) Nothing contained in this chapter shall be deemed to empower the \*[Deputy Commissioner] issuing the notice mentioned in section 26 to disallow any claim notified under the said section which is based upon a decree passed by any competent Court, and any such decree may be proved by the production of a certified copy of the same accompanied by a certificate from the proper Court that such decree remains unsatisfied. *\*[Substituted by Act III of 2008 for "Governor or the Wazir Wazarat".]*

(2) On the publication of a notice under section 26, all suits and all proceedings in execution of any decree against a ward or as affecting any property under the superintendence of the Court of Wards then pending in any Civil Court shall be stayed until the plaintiff or the decree- holder files a certificate that the claim has been notified in accordance with section 26.

(3) No fresh proceedings in execution of any decree against a ward or as affecting such property, other than a decree in respect of a transaction subsequent to the date of the notification under section 9 shall be instituted in, nor shall any attachment or other process in execution of such decree be issued by, any Civil Court, until the decree-holder files a certificate to the effect specified in clause (2).

**32. Saving of right to sue in certain cases.--** (1) Subject to the provisions of section 19 and section 31 nothing in this chapter shall be construed as preventing and claimant from bringing or prosecuting any suit, in any competent Court, in respect of any claim which has been duly notified, within the time and in the manner hereinbefore prescribed, to the \*[Deputy Commissioner] issuing the notice mentioned in section 26, which has, whether in whole or in part, been disallowed by him, but no suit shall at any time be brought or be maintainable in respect of any claim which has not been so notified or to set aside or modify the order of a \*[Deputy Commissioner] issuing the notice mentioned in section 26 (if any) fixing a date for the payment of such claim or regulating the order on which claims against the ward or properties under the superintendence of the Court of Wards shall be paid. *\*[Substituted by Act III of 2008 for "Governor or the Wazir Wazarat".]*

(2) In computing any period of limitation prescribed by the State Limitation Act or section 48 of the State Civil Procedure Code, every period during which proceedings have been stayed or temporarily barred by reasons of the provisions of this section or of section 31 shall be excluded.

**33. Appeal and revision.--** No appeal shall lie from any decision given or order made by a \*[Deputy Commissioner] under this chapter, but nothing in this section shall be deemed in any way to limit or interfere with the power of the Court of Wards to revise any such decision or order. *\*[Substituted by Act III of 2008 for “Governor or the Wazir Wazarat”].*

**34. The Government may confer the powers of Dupty Commissioner on any person .--** For the purpose of this chapter, *\*\*[the Government]* may, at any stage of any proceedings thereunder invest any person with all or any of the ppwers of *\*\*\*[a Deputy Commissioner]*. *\*\*[Substituted for “His Highness” by Act X of 1996.]* *\*\*\*[Substituted by Act III of 2008 for “Governor or Wazir Wazarat”].*

## CHAPTER VII GUARDIANS AND MANAGERS.

**35. Appointment, removal and control of guardians and tutors .--** (1) The Court of Wards may, from time to time, appoint guardians for the case of the persons of such wards as are minors or of unsound mind, or are suffering from any physical or mental defect or infirmity, or are females and unmarried, and may control and remove such guardians, and no appointment of a guardian for any ward shall be valid, unless and untill it has been confirmed by Court of Wards.

(2) In appointing a guardian under this section, the Court of Wards shall be guided, as far as may be, by the provisions of section 17 of the State Guardians and Wards Act, and if a ward leaves or is removed from the custody of a guardian appointed under this section, the *\*\*\*\*[Deputy Commissioner]* of the District, specified in the notification issued under section 9, may exercise the powers conferred by section 15 of the said Act on a Court as defined in that Act. *\*\*\*\*[Substituted *ibid* for “Governor or the Pwince or the Wazir Wazarat”].*

(3) The Court of Wards may appoint any person to be the tutor of any minor male ward and may control and remove such tutor. Every tutor so appointed shall discharge such duties and regulate his conduct in such manner as the Court of Wards may from time to time direct.

**36. No person who can succeed to ward to be appointed guardian.--** No person who would be the next lergal heir of a ward, or would otherwise be immediatly interested in outliving a ward, shall be appointed to be his guardian ; but nothing in this section shall apply to the mother of a ward or to a testamentary guardian.

**37. Duties and responsibilities of guardians .--** A guardian appointed under this Chapter shall be charged with the custody of the ward, and shall, subject to the supervision and direction of the Court of Wards, and the rules (if any) made, under this Act,

in that behalf, make suitable provision for his maintenance, health and, if he be a minor, his education and such other matters as the personal law to which the ward is subject, requires and shall —

- (a) give such security, if any, as the Court of Wards thinks fit for the due performance of his duty ;
- (b) submit such accounts as the Court of Wards may direct ;
- (c) pay the balance due from him thereon ;
- (d) continue liable to account to the Court of Wards after he has ceased to be guardian, for his receipts and disbursements during the period of his guardianship ;
- (e) apply for the sanction of the Court of Wards to any act which may involve expense not previously sanctioned by it ; and
- (f) be entitled to such salary and allowance, to be paid out of the proceeds of the property of the Wards, as the Court of Wards thinks fit, in respect of the execution of his duties as such.

**38. Appointment, control and removal of managers.--** The Court of Wards may appoint one or more managers for any properties under its superintendence and may control and remove such managers.

**39. Powers of managers .--** A manager appointed by the Court of Wards shall, subject to the supervision and direction of the Court of Wards, and the rules (if any) made, under this Act, in that behalf, have the power to collect the rent of the lands placed under his charge as well as all other money due to the ward or person whose property he manages, and to grant receipts therefor ; and he may, subject to the same supervision, direction and rules (if any), grant and renew leases and forms and do all such lawful acts as he may be generally or specially authorised by the Court of Wards to do for the good management of the property.

**40. Duties and responsibilities of managers .--** Every manager appointed by the Court of Wards shall, subject to the supervision and direction of the Court of Wards and to the rules (if any) made under this Act in that behalf, manage the property or properties placed under his charge diligently and faithfully, and he shall —

- (a) give such security, if any, as the Court of Wards thinks fit, duly to account for what he may receive in respect of the rents and profits and other income of the property under his charge ;
- (b) keep accounts in such form and submit them at such time as the Court of Wards may direct ;
- (c) deal with all money received by him in such manner as the Court of Wards

may direct ;

- (d) apply for the sanction of the Court of Wards to any act which may involve the property, in expense not previously sanctioned by it ;
- (e) be entitled to such salary or allowance, to be paid out of the proceeds of such property, as the Court of Wards thinks fit, in respect of the execution of duties ;
- (f) be responsible for any loss occasioned to the property by his negligence or wilful default ; and
- (g) continue liable to account to the Court of Wards after he has ceased to be manager for his receipts and disbursements during the period of his management.

**41. Termination of appointment of guardian or manager.--** The appointment of every guardian and manager appointed under this chapter, shall terminate on the Court of Wards ceasing to exercise superintendence of the person or property in respect of whom or which such guardian or manager, as the case may be, has been appointed.

**42. Guardians and managers to be deemed to be public servants .--** (1) Every guardian and manager appointed under this chapter shall be deemed to be a public servant within the meaning of section 21 of the Ranbir Penal Code and for the purposes of that Code.

(2) In the definition of "legal remuneration" contained in section 161 of the Ranbir Penal Code the word "Government" shall, for the purposes of this section be deemed to include the Court of Wards.

**43. Deputy Commissioner when to discharge the duties of the guardian or a manager.--** If no such guardian or manager is appointed by the Court of Wards the \*[Deputy Commissioner] of the district, specified in the notification under section 9 or any other \*\*[Deputy Commissioner] whom the Court of Wards may appoint in that behalf, shall be competent to do anything that might be lawfully done by a guardian of the person or a manager of the property appointed under this chapter. *\*/Substituted by Act III of 2008 For "Governor of the Province or the Wazir Wazarat".]. \*\*{Substituted ibid for "Governor or the Wazir Wazarat".}*

## **CHAPTER VIII.**

### **RELEASE OF PERSONS AND PROPERTIES FROM SUPERINTENDENCE.**

**44. Power to release from superintendence.--** The Court of Wards may, at any time, release any person or property, or both, from its superintendence :

Provided that the property of a land-holder, who has been made a ward in accordance with an order made under section 5, shall not be released from the superintendence of the Court of Wards without the previous sanction of \*\*\*[the Government]: \*\*\*[Substituted for "His Highness" by Act X of 1996.]

Provided further, that person or property, under the charge of the Court of Wards in accordance with the provisions of sub-section (2) of section 7, shall not be released without the concurrence of the Court which appointed or declared the \*\*[Deputy Commissioner] to be guardian of the person, property, or both, of the person concerned, under the State Guardians and Wards Act. \*\*\*[Substituted *ibid* for "Governor or the Wazir Wazarat".]

**45. Retention of superintendence of property until discharge of debts.--**(1) Whenever a ward dies or ceases to be under any legal incapacity, and his property is, at the time of his death or cessation of incapacity, still encumbered with debts and liabilities, the Court of Wards may either release such property or, with the sanction of \*\*\*[the Government] retain it or any part thereof under its superintendence until such debts and liabilities have been discharged. \*\*\*[Substituted for "His Highness" by Act X of 1996.]

(2) In any case provided for in sub-section (1) the Court of Wards may together with the property of any ward also retain, until the said debts and liabilities have been discharged, the property of which it has assumed the superintendence under section 8.

**46. Retention of superintendence where there are more proprietors than one.–**If, in the case of any property, there are more proprietors than one, the Court of Wards may retain the whole property under its superintendence if one or more of the proprietors remain wards, although other or others may have ceased to be under any legal incapacity :

Provided that in such cases a proprietor who has ceased to be disqualified shall not, after the cessation of such disqualification, be deemed to be a ward for the purposes of this Act and the Court of Wards shall pay to such proprietor the surplus income accruing from his share of the joint property.

**47. Appointment of guardian on release of minor .—**(1) When the Court of Wards decides to release from its superintendence the person or property, or both, of any minor, it may before such release, by an order in writing, appoint any person to be the guardian of the person or property, or both, of such minor.

(2) Such appointment shall take effect from the date of such release.

(3) In appointing a guardian under this section the Court of Wards shall be guided by the provisions of section 17 of the State Guardians and Wards Act, and in every such case the \*[Deputy Commissioner] of the district, specified in the order of assumption in the notification under section 9, shall have the powers conferred upon a \*\*[Deputy Commissioner] under section 35 (2). \*[Substituted by Act III of 2008 for "Governor of the Province or the Wazir Wazarat".] \*\*[Substituted *ibid* for Governor or the Wazir

*Wazarat".]*

(4) Every such guardian shall have and be subject to the same rights, duties and liabilities as if he had been appointed under the State Guardians and Wards Act.

**48. Disposal of property after the death of a person of whose property the Court of Wards has assumed superintendence.**— Whenever, in the event of the death of any person of whose property the Court of Wards has assumed superintendence, the succession to his property, or any part thereof, is unclaimed or disputed, the Court of Wards may either direct that the property, or part thereof, be made over to any person entitled to or claiming the same, or may institute a suit of interpleader against the several claimants, or may retain the superintendence thereof until a claimant has, in due course of law, established his title thereto in a competent Court.

**49. Delivery on documents and accounts on release of property.**— Whenever the Court of Wards releases the property of any person from its superintendence, it shall deliver to such person, or if it has appointed a guardian under sub-section (1) of section 47, to such guardian all documents of title and all papers and accounts (other than State records) relating to such property.

**50. Notification as to release from superintendence.**— Whenever the Court of Wards releases any person or property from its superintendence, the fact of such release shall be notified in the Government Gazette, and such release shall take effect from the date fixed in this behalf in the notification.

**51. Recovery of expenses.**— Any expense incurred by the Court of Wards on account of any property under its superintendence may, after the release of such property, be recovered as an arrear of land revenue due in respect of such property or any part thereof.

#### **CHAPTER IX. MISCELLANEOUS PROVISIONS.**

**52. Bar of suits and proceedings.**— (1) No suit shall be brought in any civil Court in respect of the exercise of any discretion conferred by this Act.

(2) No suit shall be brought against any officer of the State or any guardian, manager or servant appointed by, and discharging his duties under a Court of Wards for anything done by him in good faith under this Act.

**53. Investigation into matters under Chapter VI and VII to be considered judicial proceedings.**— Every investigation conducted by a \*[Deputy Commissioner] with reference to any claim preferred before him under Chapter VI or Chapter VII or to any matter connected with any such claim shall be taken to be a judicial proceeding within the meaning of the Ranbir Penal Code.

**54. Power to make rules.**— The Court of Wards may, with the previous sanction of \*[the Government], make rules, consistent with this Act, regulating all or any of the following matters, namely :— *\*[substituted for “His Highness” by Act X of 1996.]*

- (a) the management of properties or all or any property under the superintendence of the Court of Wards ;
  - (b) the procedure to be observed and the powers to be exercised by all or any persons in all or any proceedings under this Act ; and
  - (c) generally for the purpose of giving effect to all or any of the provisions of this Act.
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